

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DIVISION OF TEXAS
DALLAS DIVISION

ASHUTOSH SHARMA,
Plaintiff,

v.

AMAZONTXCARE EMPLOYEE
INJURY BENEFIT PLAN and
AMAZON.COM, INC.
Defendants.

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Civil Action No. _____

DEFENDANTS' NOTICE OF REMOVAL

Amazon.com, Inc. (incorrectly identified as "Amazon Web Services, Inc." and hereinafter referred to as "Amazon"), Defendant in the state court case below and AmazonTXCare Employee Injury Benefit Plan (hereinafter "The Plan") (collectively "Defendants") hereby remove such case to this United States District Court and would respectfully show the Court as follows:

STATEMENT OF THE CASE

1. Plaintiff Ashutosh Sharma ("Plaintiff") brought suit against Amazon in the Justice of the Peace, Precinct 3, Place 1 of Dallas County, Texas, in a case styled *Ashutosh Sharma v. Amazon Web Services, Inc.*, Docket No. JS-20-00854A (the "State Court Action"). See EXHIBIT A, *Documents filed in State Court Action*.

2. Amazon was served on October 19, 2020 and filed its answer on November 2, 2020. In its answer, Amazon included a special exception due to the vagueness of Plaintiff's Petition. *See* EXHIBIT A, *Documents filed in State Court Action*.

3. Plaintiff filed a response to Amazon's Answer on December 10, 2020 stating he was filing the lawsuit against Amazon pursuant to 29 U.S.C. § 1132(a)(3) and Section 502(a) of ERISA following an adverse benefit determination on review. *Id.*

4. On December 11, 2020, the JP Court held a hearing on Amazon's special exceptions and granted same. *Id.*

JURISDICTION

5. This United States District Court has jurisdiction over this dispute pursuant to 28 U.S.C. §1331 because it involves the enforcement of the AmazonTXCare Employee Injury Benefit Plan – an ERISA plan governed by 29 U.S.C. § 1144, which preempts all of Plaintiff's claims.

6. Venue is proper under 28 U.S.C. §§ 1441(a) and 1446(a) because the Northern District of Texas, Dallas Division embraces the Justice of the Peace Precinct 3, Place 1 in Dallas County, Texas, where the State Court Action was originally commenced.

FEDERAL QUESTION: ERISA PREEMPTION

7. Plaintiff's ERISA claim invokes this Court's federal question jurisdiction. 28 U.S.C. § 1331. Plaintiff complains that Amazon is in breach of its Injury Benefit Plan, a plan enacted pursuant to ERISA. The ERISA statute preempts Plaintiff's causes of

action and mandates that this case be brought in federal district court. ERISA has the broadest possible preemption clause. ERISA § 514 states:

Except as provided in subsection (b) of this section, the provisions of this subchapter and subchapter III of this chapter shall supersede any and all State laws insofar as they may now or hereafter relate to any employee benefit plan described in section 1003(a) of this title and not exempt under section 1003(b) of this title.

29 U.S.C. § 1144(a). A cause of action “relates to” an employee benefit plan if it has a connection with or reference to such a plan. *Egelhoff v. Egelhoff ex rel. Breiner*, 532 U.S. 141, 141 (2001)(citing *Shaw v. Delta Air Lines, Inc.*, 463 U.S. 85, 96 (1983)). Preemption under ERISA is “deliberately expansive, and designed to ‘establish plan regulation as exclusively a federal concern.’” *Pilot Life Ins. Co. v. Dedeaux*, 481 U.S. 41, 45 (1987). This preemption dictates that a cause of action governed by ERISA be brought only in federal court and tried before a federal judge. 29 U.S.C. § 1132(e). (“the district courts of the United States shall have exclusive jurisdiction of civil actions brought under this Subchapter”).

REMOVAL REQUIREMENTS

8. This Notice of Removal is filed in compliance with 28 U.S.C. § 1446(b). Specifically, it is filed within 30 of the JP Court’s ruling on Amazon’s special exceptions.

9. Defendants will promptly provide written notice of the filing of this notice to all adverse parties and shall file a copy of the notice with the clerk in the state court action, as required by 28 U.S.C. § 1446(d).

10. Amazon.com, Inc. (incorrectly identified as “Amazon Web Services, Inc.” and hereinafter referred to as “Amazon”) is the only defendant in the State Court Action. AmazonTXCare Employee Injury Benefit Plan is a property party to this matter and consents to the removal. No other defendants are required to consent to this Notice of Removal. A complete list of attorneys involved in the State Court Action include, including Plaintiff acting as *pro se*:

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11. If any questions arise as to the adequacy or propriety of the removal of this action, Defendants request the opportunity to supplement this notice with evidence and/or to brief any disputed issues and present oral argument in support of this removal.

12. Defendants intend no admission of fact, law, or liability by this notice.

PRAYER

13. WHEREFORE, Defendants AmazonTXCare Injury Benefit Plan and Amazon.com, Inc. pray that the above-entitled cause be removed to the United States District Court for the Northern District of Texas, Dallas Division, and that this Court assume jurisdiction over this lawsuit and retain it for final disposition, and for such other relief, both general and special, at law or in equity, to which Defendants may be justly entitled.

Respectfully submitted,

BELL NUNNALLY & MARTIN LLP

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ATTORNEYS FOR DEFENDANTS

CERTIFICATE OF SERVICE

On January 8, 2021, I filed the foregoing document with the clerk of court for the U.S. District Court, Northern District of Texas. I hereby certify that I have served the document on all counsel and *pro se* parties of record by a manner authorized by Federal Rule of Civil Procedure 5(b)(2).

/s/ Alana K. Ackels

Alana K. Ackels

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